

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GOPRO, INC.,
Plaintiff,
v.
360HEROS, INC.,
Defendant.

Case No. [16-cv-01944-SI](#)

**ORDER DENYING DEFENDANT'S
MOTION TO STRIKE**

Re: Dkt. No. 171

Defendant 360Heros' motion to strike plaintiff GoPro's second motion for summary judgment (Dkt. No. 173) is scheduled for hearing on March 23, 2018. Dkt. No. 171. Pursuant to Civil Local Rule 7-1(b), the Court determines the matter suitable for resolution without oral argument and VACATES the hearing. For the reasons set forth below, the Court DENIES defendant's motion to strike.

Defendant requests the Court strike plaintiff's motion for summary judgment (Dkt. No. 173) on the grounds that plaintiff did not obtain leave of Court to file a second motion for summary judgment. Dkt. No. 171. Defendant contends plaintiff's motion is in violation of this Court's Standing Order. Dkt. No. 19-1. Defendant also contends plaintiff's motion is an unnecessary, successive attempt at summary adjudication that will prejudice defendant if defendant is forced to oppose the motion. Dkt. No. 171 at 1. Plaintiff counters that GoPro discussed filing a second motion for summary judgment before the Court, and that defendant will not be prejudiced because the March 23, 2018, deadline to file dispositive motions set forth in the Court's Pretrial Order (Dkt. No. 74) has not yet expired. Dkt. No. 177 at 1-3.

1 “Failure by counsel or a party to comply with any duly promulgated local rule¹ or any
2 Federal Rule may be a ground for imposition of any authorized sanction.” Civil Local Rule 1-4.
3 “District courts have the inherent power to strike items from their docket for litigation conduct.”
4 *Ibrahim v. United States Dep’t of Homeland Sec.*, 835 F.3d 1048, 1065 (9th Cir. 2016). “Because
5 of their very potency, inherent powers must be exercised with restraint and discretion.” *Chambers*
6 *v. NASCO, Inc.*, 501 U.S. 32, 44 (1991).

7 The Court finds striking plaintiff’s motion for summary judgment unwarranted. An order
8 to impose sanctions in the form of striking a dispositive motion is a discretionary power of the
9 Court. *Id.* The record shows no cause to strike plaintiff’s motion. Plaintiff’s first motion for
10 summary judgment was substantively distinct from this motion. Additionally, the deadline for
11 dispositive motions has not yet expired. Accordingly, both parties should be prepared to answer
12 any such motion at this time. Therefore, the Court DENIES defendant’s motion to strike.

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14 **IT IS SO ORDERED.**

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16 Dated: March 13, 2018

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18 SUSAN ILLSTON
19 United States District Judge
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¹ This includes the Court’s Standing Orders.